



**STATE OF WASHINGTON**  
**DEPARTMENT OF LICENSING**  
*PO Box 9020, Olympia, Washington 98507-9020*  
**WASHINGTON REAL ESTATE COMMISSION**  
**REGULAR MEETING MINUTES**

**DATE:** September 25, 2007

**TIME:** 9:00 A.M.

**PLACE:** Campbell's Resort  
On Lake Chelan  
104 W. Woodin  
Chelan, WA 98816

**MEMBERS**

**PRESENT:** Suki Bazan  
Paul Chiles  
Catherine Moyer  
Dan Murphy  
George Pilant  
Robert A. Spain Jr.

**MEMBERS**

**NOT**

**PRESENT:** Liz Luce

**STAFF**

**PRESENT:** Lee Malott, Administrator  
Jerry McDonald Assistant Administrator  
Karen Jarvis, Real Estate Program Manager  
Joan Robinson, Appraiser Professional Licensing Manager  
Jody Campbell, Assistant Attorney General Advisor (AAG)

**INTRODUCTORY BUSINESS**

Commissioner Paul Chiles, called the Real Estate Commission meeting to order at 9:00 AM

**A. Approval of Agenda**

**MOTION:** It was moved and seconded to approve the agenda as published. Motion passed.

**B. Roll Call**

Roll taken and reported.

**C. Welcome of new Commissioner, Dan Murphy**

Lee Malott introduced Dan Murphy to Commission: Dan Murphy was appointed to the Real Estate Commission by Governor Gregoire on August 27, 2007. His term expires on

August 14, 2013. Commissioner Murphy has been in the real estate industry since 1989. During 1996 he began working for Windemere in real estate sales. He currently is an associate broker. A Native Washingtonian and born in Aberdeen. He has lived in Seattle since the mid seventies. Some of his favorite past times are, fishing and cooking. All commissioners gave Mr. Murphy a warm welcome.

#### **D. New Commission Recording Process**

The commission was briefed on the new recording process. Commissioners, staff and audience was asked to identify themselves prior to speaking.

#### **E. Approval of June 2007 Commission Meeting Minutes:**

**MOTION:** It was moved and seconded to approve the June 7, 2007 meeting minutes as published. Motion passed.

**F. Budget Presentation, Analysis:** Sam Knutson, budget administrator, Department of Licensing (DOL) presented an overview of the DOL budget and Washington State budget process. In context of Real Estate funds, DOL budget basics, the agency is divided into five divisions:

- Management support services,
- Information Services,
- Vehicle Services,
- Driver Services,
- Business and Professions

Some of the other items Mr. Knutson pointed out: that each division is funded by a variety of funding sources. The funding is broken into three sources:

- **Transportation funds** – Are a large amount of our funding and are overseen by the Legislative Transportation Committee in both the house and senate.
- **The General fund** - We have a small portion of the general fund in each of our operating divisions.
- **Dedicated Funds** – These funds are grouped together with the general funds and are often called **omnibus** funds which are overseen by the Omnibus Appropriation Committees of both the House and Senate.
- All of the Real Estate funds are in the omnibus fund. There are a lot of people monitoring our funds from many different committees. Two key distinctions that Ralph Osgood, Assistant Director, for BPD wanted made today are the differences between funds that we have for expenditures and funds that are in fund balances in dedicated funds. Funds in Washington State Government for all operating programs are only available when they are appropriated by the legislature during the budget process.
- There are only certain time frames that we can ask for additional funding. Currently, we are in the supplemental budget process. We are building our supplemental budget which means we have just entered a new biennium recognizing we have new things that we would like to do or items that we overlooked in the biennial budget; which was prepared a year ago so we are requesting them now of the 2008 legislature.

The Real Estate Commission explained their concern regarding a request that was made during the last commission meeting to support an initiative to publish a newsletter. The commission asked:

- If the initiative was going to move forward or has that been stopped?
- Has the director been informed that this is the will of the commission to support this initiative?
- What needs to be done to have the will of the commission carried out and moved forward?

Sam Knutson responded that this particular initiative was not in our supplemental budget. The director makes the decision on what to include in the budget.

The commission continued expressing concerns and issues regarding the budget request:

- What needs to be done to get this newsletter and outreach initiative passed?
- The commission is being told we can't use this money, but the money is there, how is this going to be perceived by the real estate industry and the public? The real estate commission stated that it is important for the commission to know that when they are making recommendations that they are not made frivolously. We are making them because we understand the issues that are hugely prevalent in our industry.
- Who do we have to convince that this is in their best interest as politicians to move forward?
- The commission also noted that Ralph Osgood does support the initiative and stated that there is disconnect in communication somewhere, because this issue is not moving forward.
- The commission unanimously indicated that they were not accepting "No" if we have to use the juice we have...we will go to the Governor. We do not want to embarrass anyone, but if someone is arbitrarily stopping this initiative that is unacceptable. If they need to understand our initiative a little more clearly we will be happy to sit down with them and make our views known and understood.

Sam Knutson summed up his presentation by offering to attend the real estate commission meetings quarterly to keep us apprised of the budget status of the agency and where we are in the cycle budget monitoring processes that exist in BPD. He would also like to talk to the commission about other strategies they can use to leverage available funding to get these things done.

#### **G. Association of Real Estate Licensing Law Officials (ARELLO) Course Content Certification Process**

Jerry McDonald explained that this is a program offered by ARELLO and they review course content. The big value is for providers who want to provide a course to more than one state. If the State accepts the ARELLO certification then the providers would only have to go through ARELLO. This does not cost the department any money. It does cost slightly more money for the providers. However, the advantage is if most states accept ARELLO certification they would only have to do it in one place. Jerry McDonald asked the commission to endorse their certification. There is no formal commitment on the department's behalf to ARELLO but it supports the idea. In addition Jerry McDonald asked if the commission would like to refer this to the Education Committee for more input

and study because parts of ARELLO's approval process allows for a three year time frame and currently we approve courses for two years which are different than our current code.

The Commission asked if we choose to accept this, would it limit the certification to two years? Would that present a problem for ARELLO?

Jerry McDonald responded that it was unclear what specific items would create a problem and that is why the Education Sub-committee should review. There are rules that we need to change in order to allow it. We may have to change more than just the three year criteria.

Commissioner Chiles stated that for the good of the order; the commissioners that are not a part of the Education Sub-committee to please provide your thoughts to the Education Sub-committee Chairman Commissioner Pilant. This program appears to benefit the commercial industry, the CCIM courses and some of the courses that the commercial practitioners attend are offered in a format that could be good for one stop shopping if you are a provider. The impacts of the residential side of the industry are unknown.

Commissioner Pilant stated this is an opportunity to review the ARELLO education content certification program which is fairly new initiated in 2007. George Pilant stated he had two motions he would like to make that reflect what Jerry McDonald had just requested. First, he would like to comment that it is important to recognize what the objectives of the content certification program are and there are six objectives. The first one is to provide assurance that the content of Real Estate education offered meets ARELLO standards. This would provide means by which regulatory agencies can participate on a voluntary basis to reduce the workload on agencies by reviewing course content. The second one would promote the recognition of content among jurisdictions by certifying course content that is generally accepted in professional real estate practice and ensure that course titles accurately reflect the content. Provide guidance to providers in the continued improvement of the educational content as it pertains to professional real estate practice and promote educational and ethical standards of professional real estate education. There are some significant benefits by using all or part of this certification program. Based on that, George Pilant proposes two motions:

**Motion 1:** To move to have the Washington State Department of Licensing endorse the ARELLO content certification program.

**Motion 2:** Use the participation notification form provided by ARELLO.

Commissioner Bazan indicated some concern that some of the questions we are talking about do not make it efficient for us to approve course material and providers. She thinks that the commission needs to look at the two year approval instead of the three year approval and the costs. If the department doesn't change the three years to two years, some of the renewals that come back would not be modified. They are resubmitted in the same content they were submitted three years prior. Some topics that ARELLO offers do not fall in line with what we offer. The way the motion was made did not say that it would be approved by the education unit. This should be completely reviewed by the education unit before going to the director and before it leaves the Department of Licensing it should be submitted to the Education Unit of Department of Licensing.

Commissioner Pilant stated that from the endorsement letter itself, an endorsement constitutes no formal commitment to ARELLO or providers obtaining this certification but does allow the jurisdiction to support the initiative by simply endorsing the content certification program. A jurisdiction can provide a statement that promotes quality education and encourages providers to meet quality standards regardless of whether they are to obtain certification. The motion is toward an endorsement to support the ARELLO initiative, it is not a commitment on the part of Washington State or this Real Estate Commission. George Pilant believes that concerns would be addressed in his second motion which is to refer this to the Education Committee and department staff for further study and to make sure that the questions about the RCWs and the WACs are addressed.

**Motion 1:** Endorse the content certification program: Approved and seconded with one descending vote. Motion passed.

**Motion 2:** To move Education Committee to evaluate the education content and certification content program and to make a recommendation for any further participation by the Washington State Real Estate Commission at the December meeting. Motion approved and seconded with one descending vote. Motion passed.

#### **H. Report on WACs 308-124H-013, 308-124H-039, 308-124H-025**

Jerry McDonald reported that WAC's 308-124H-013, 039, 025 will go before the code reviser on October 18, 2007 and will be effective thirty one days after that date. They have been completed and processed.

#### **I. Report on Core curriculum**

George Pilant briefed the commission members that the new core curriculum was adopted on July 31, 2007. This is the three-hour mandated curriculum and learning objective. A difference about this core is suggested timelines to assist the providers in the development of course content. This came from discussions in the Education Committee and a number of providers participated in this process

#### **J. Discussion of Committees and Members**

There are two committees of the Real Estate Commission. The Changing Business Practices Committee as well as the Education Committee. Committees may need to be reconfigured. This is an opportunity to add another committee.

- George Pilant Chairs Education Committee, Paul Chiles and Bob Spain will serve on that committee
- Cate Moye Chairs the Changing Business Practices Committee and Suki Bazan and Dan Murphy will serve on the committee
- Real Estate Commission established a new Mortgage committee, Suki Bazan will Chair this committee and Paul Chiles and Robert Spain will serve on the committee.

#### **K. Course Approval Process**

Bob Mitchell of Washington Realtors asked the commission to consider a rule that would allow for an increase fee for expedited course approval. The skill sets of the commissioners

and the scope of the courses were briefly discussed. The issue was referred to the Education Sub-Committee.

#### **L. Planning for 2008 – Location and Dates**

The commission agreed to have the commission meetings at the following locations: Bremerton (Planning Session March 2008), Bellingham (June 2008), Pasco (Sept 23, 2008), SeaTac (December 2008)

Motion was made to accept the cities. Motion passed. Staff was instructed to come up with specific dates for the next commission meeting.

#### **M. Update on release of license WAC 308-124A-130**

Karen Jarvis reported the change to the proposed changes in the rule requested at the previous Commission Meeting had been incorporated. The proposed rule should be filed.

Motion was made to accept the changes and to file the CR 102. Motion passed.

#### **N. Fingerprinting**

Lee Malott received a letter from WSP in June stating that they would continue to honor the Criminal Justice Agency designation for a limited amount of time. This includes the State Patrol fingerprinting which they are going to change the process on July 1, 2008. We will no longer be able to obtain fingerprints without additional language being added to our statute. There is no back up for this process. All fingerprints would go through DOL so that they collect the fee and send it to the Washington State Patrol and FBI.

#### **O. Glen Crellin, WCRER**

Dr. Crellin reported that he has twice as many students in his investments class this year than last year. His Real Estate Principles class is full. He is the only professor in Real Estate for the second year. Washington State University has embarked on a recruitment program for one position in finance. That position will not be exclusively Real Estate. This will occur in the fall of 2008. Dr. Crellin stated the budget authority of the contract that have with the Real Estate Commission is capable of supporting forty percent of my compensation. This year we have two contracts that we are working outside of the Real Estate licensing community. One is for the Department of Transportation and one is for Washington Mutual Bank.

In light of today's discussions Dr. Crellin is withdrawing his proposals and will again present them at the December meeting with some supplemental work being funded out of the Real Estate Education account. That may address some of the concerns that are relative to the future of the Real Estate industry in light of disruptions in the financing of real estate transactions. It will not be exclusively sub-prime and it will not be exclusively related to real estate licensees providing financing services, but will be designed to benefit licensees and consumers relative to the financing of residential transactions.

#### **P. AG Opinion on Listings without Price**

Is it possible to have listing agreement without having a list price of the property into the listing agreement? The answer is yes. Case law sites Bishop vs. Hanson that came out of court of appeals division in 2001. The court of appeals concluded there is no reason why the listing price should be an essential term of a listing. It goes on to explain the history behind

its decision. It states that our Supreme Court held in 1930 that a brokerage agreement without a stated sales price does not violate the statute of frauds because it described the property to be sold and established a commission. That is from the case Bethel vs. Preston that was the Supreme Court decision.

**Q. Briefing/Discussion of postmark date and Online**

The Department is heading towards doing more business on the internet. Eventually, we will no longer accept the postmark date. It will be the date that the department actually receives the renewal or application. Renewals on line are at forty percent.

**R. Update on Newsletter**

We have a pending contract with the Department of Licensing to do the preparation work on a Newsletter. We are working on the presumption that contract is going to be signed. There are currently two students that are working on articles for the letter. The intent is to draft articles for the DOL staff in the later part of October. We plan to have the first issue of the newsletter in camera ready form for the printer some time in December, presuming that we have the authority to move forward with this project. If there are particular topics the commissioners would like to have included in the letter, please forward suggestions via e-mail.

Commissioner Spain stated that he would like to oppose print version on record. The print delivery method is not cost effective. The department should look at other methods such as the internet. It would greatly reduce the costs and increase the ability to deliver more frequent newsletters.

**S. ARELLO Report**

Commissioner Cate Moyer would like to highly recommend that everyone have an opportunity to attend this conference. This conference had two themes. The first being the role of technology in our industry and how it is rapidly expanding. It was discussed how business is done, how regulations are handled, how this information can be maintained and is out in public. They talked about how the industry can be improved by using it. The second theme focused on predatory lending in Washington State as well as nationwide.

**T. Other Business**

Bob Mitchell from the Washington REALTORS discussed the status on the license law rewrite. Over the last several months several of the Association members had the opportunity to continue a dialogue on the discussion draft of RCW 18.85. The Washington Realtors Executive Committee at the request of a number of our member organizations, King County Realtors and others asked for the opportunity for continuing dialogue. They asked the dialogue to focus primarily in the area of the ongoing concern relative to the recommended changes in the statutory exemptions to the license law.

The beginning of 2007 legislative session, they had the opportunity to begin those discussions. They made a presentation to the full board of directors and had the opportunity to have preliminary discussions concerning the statutory exemptions as well as a number of the recommended changes. At the request of that group as well as representatives from the Seattle King County Board of Directors, they met again in early August to finalize those discussions.

They felt it was appropriate to provide for a statutory exemption for exempting employees acting on behalf of their employer owners. That was consistent with the request of the external stakeholders that had the opportunity to visit this throughout the good portion of 2006. The recommendation is consistent with the discussion draft proposal last fall of 2006. It does contain an exemption, exempting employees acting on behalf of employer owners. It does not make any clarification to the form of ownership. It exempts all employees acting on behalf of owner employees. The group requested a couple of other things that the License Law Task Force recommended. The first is that the broker supervision requirement found in RCW 18.85.155 be repealed and replaced by another more specific broker supervision requirement. The Broker owners from Northwest Multiple Listing Association and others do not like the statute from a consumer protection standpoint. However, they felt it was much more important that the particular statute remain in the license law so it was added back into license law.

The task force during their two years of deliberation had recommended the branch office requirements be eliminated from the license law. The broker owner groups know this eliminated an opportunity for additional consumer protection and they wanted that verbiage to stay in the law.

During the discussions, the group asked the director of Department of Licensing be given statutory authority in the continuing education portion under RCW 18.85.160 to establish by rule a limitation on the number of hours of continuing education that could be derived from distance education for license renewal. This is a discretionary provision that does not establish a limitation by statute. It provides the director an opportunity to establish by rule a limitation on the number of hours of distance education. That would require a rules hearing process and a lot of discussion and negotiation with the various providers. This was a request from the Major Brokerage Committee. Washington Realtor Consumer Business Affairs Committee met a couple of weeks ago and made the decision to recommend as a special committee to our Legislative Steering Committee that modifications can be made and the Executive Committee will move to make the proposal as a "modified" part of our legislative agenda for 2008.

Dave Rockwell had concerns about the department approving a pre-license course for one of Rockwell Institute's students. The issue was referred to education staff.

## **ADJOURNMENT**

There being no other business, the meeting was adjourned at 1:30 P.M.